

Vol 1-662

CR-02-0327

COURT OF CRIMINAL APPEALS NO.

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF Montgomery COUNTY, ALABAMA

CIRCUIT COURT NO. CC-02-920

CIRCUIT JUDGE Yruman Hobbs

Type of Conviction / Order Appealed From: Robbery I

Sentence Imposed: 20 yrs.

Defendant Indigent: ☒ YES ☐ NO

Kelly Vickers 669-0700
(Appellant's Attorney) (Telephone No.)

P.O. Box 230803
(Address)
Montgomery Al 36123
(City) (State) (Zip Code)

Charles Smith
NAME OF APPELLANT

STATE OF ALABAMA

(State represented by Attorney General)

NAME OF APPELLEE

NOTE: If municipal appeal, indicate above, and enter name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

EXHIBIT A

ACRO370 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2002 000920.00
OPER: DEC CASE ACTION SUMMARY RUN DATE: 07/24/2002
PAGE: 1 CIRCUIT CRIMINAL

IN THE CIRCUIT COURT OF MONTGOMERY

JUDGE: SMG

STATE OF ALABAMA

VS

SMITH CHARLES Sr.
2703 GENEVA STREET

AMS
129560

CASE: CC 2002 000920.00

MONTGOMERY, AL 36107 0000

DOB: 01/31/1958 SEX: M RACE: B HT: 5 08 WT: 210 HR: BLK EYES: BRO
SSN: 419886398 ALIAS NAMES:
CHARGE01: ROBBERY 1ST CODE01: ROB1 LIT: ROBBERY 1ST TYP: F #: 001
OFFENSE DATE: 04/28/2002 AGENCY/OFFICER: 0030100

DATE WAR/CAP ISS:
DATE INDICTED: 07/19/2002
DATE RELEASED:
BOND AMOUNT: \$200,000.00

DATE ARRESTED: 04/28/2002
DATE FILED: 07/24/2002
DATE HEARING:
SURETIES:

DATE 1: DESC:
DATE 2: 08/01/2002 DESC: ARRG

TIME: 0000
TIME: 0830 A

TRACKING NOS: GJ 2002 070256 00 /

DEF/ATY:

TYPE: A

TYPE:

W. Durant
Kelly Vickers

00000

00000

PROSECUTOR:

CH CSE: GJ200207025600 CHK/TICKET NO: 2002F-725 GRAND JURY: 0256
COURT REPORTER: SID NO: 000775002
DEF STATUS: JAIL DEMAND: OPER: DEC

TRANS DATE	ACTIONS, JUDGEMENTS, AND NOTES	OPE
07/24/2002	ASSIGNED TO: (SMG) (AR01)	DEC
07/24/2002	FILED ON: 07/24/2002 (AR01)	DEC
07/24/2002	CHARGE 01: ROBBERY 1ST/#CNTS: 001 (AR01)	DEC
07/24/2002	DEFENDANT INDICTED ON: 07/19/2002 (AR01)	DEC
07/24/2002	INITIAL STATUS SET TO: "J" - JAIL (AR01)	DEC
07/24/2002	DEFENDANT ARRESTED ON: 04/28/2002 (AR01)	DEC
07/24/2002	BOND SET AT: \$200000.00 (AR01)	DEC
07/24/2002	SET FOR: ARRAIGNMENT ON 08/01/2002 AT 0830A (AR10)	DEC
07/24/2002	CASE ACTION SUMMARY PRINTED (AR08)	DEC
07/24/2002	CAS ATTACHMENT PRINTED (AR08)	DEC
8-1-02	<i>W. Durant appointed</i>	
	DEFENDANT ARRAIGNED IN OPEN COURT, PLEADS NOT GUILTY.	
9/04/02	<i>SMG</i> <i>Notice of Discovery</i>	

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State of Alabama Unified Judicial System	CASE ACTION SUMMARY CONTINUATION	Case Number <u>2</u> <u>CC-02-920 GR</u>
Form C-7	Rev 2/79	

Style:

Charles Smith, Sr

Page Number _____ of _____ Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
11-12-02	Defendant & attorney appeared for sentencing. Court asked if he/she had anything to say why sentence should not now be pronounced and Defendant had his/her say.
11-12-02	HOA Enhancements Applicable <u>(Yes)</u> /No Defendant Admits _____ State Proves _____ priors
	IT IS ORDERED:
	Sentenced to <u>20</u> yrs./split to serve _____ yrs. _____ reverse split postpone _____ Review _____
	Concurrent _____ Consecutive _____
	<u>Weapon Enhancement</u>
	Suspended YES/NO Supervised/P.O./Court Probation _____ Level II
	_____ years End of Split Sentence _____ years
	<u>✓</u> DOC to give 60 day notice prior to E.O.S.
	ENHANCEMENTS \$1000/2000 Enhancement Fine
	_____ Remit portion completion of SAP
	_____ Driver License suspended/revoked 6 mo/_____
	_____ \$100 DFS fee _____ \$100 Head Injury
	_____ years School _____ years Public Housing
	_____ years Sale under 18
	Boot Camp _____ SAP _____ Review upon completion-YES _____ GED _____
	Work Release _____ Community Service _____ hrs. Trash Pickup _____ hr
	OTHER:
	<u>Shantell Robinson</u>
	Restitution \$ <u>62.96</u> Co-Defendant(s) _____
	Jointly and Severally liable Crime Victim \$25.00/\$50.00 _____
	Court Costs <u>✓</u> Attorney Fees <u>\$150.00</u> <u>\$200.00</u> Fine <u>\$2,000.-</u>
	Payment \$ _____ Mo/Week Begin _____ /02 or 1/2 monies earned <u>✓</u>
	Defendant advised right to appeal <u>(yes)</u> /no unless reserve issue or withdraw plea; Defendant to be given credit for time served.
	Appeal Bond set \$ _____
	<u>I give oral notice of appeal in open Court</u> <u>(SMA)</u>
	SALLY GREENHAW CIRCUIT JUDGE

ACRO369 ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY
CONTINUATIONCASE: CC 2002 000920.00
JUDGE ID: SMG

STATE OF ALABAMA VS SMITH CHARLES

DATE ACTION, JUDGMENTS, CASE NOTES

10-29-02

JUDGEMENT IS HEREBY ENTERED
IN ACCORDANCE WITH THE
VERDICT OF THE JURY

guilty of Robbery

SMG

Circuit Judge

DA Powell gives notice of
prior and intent to invoke
gun enhancement.Sentencing set 11-12-02 @ 8:30
SMG11-12-02 Order Allowing Winston Durant to Withdraw &
Appointing Kelly Vickers as the atty. on appeal11-19-02 Cert. of Appl. to Crm. Appls., AG, DA, Atty. (w/ forms)
& Cr. Reporters

12-18-02 Forms Filed

7
PC 02 920

SMG

0256
GJ NO. _____

THE STATE OF ALABAMA

Charles Smith
B/M HT: 5'8" WT: 210 DOB: 01/31/58

2703 Geneva St.

D. NO. 00750023 ARREST DATE _____

FOR

Robbery 1

A TRUE BILL

Ashley Day
Foreperson of Grand Jury

No Prosecutor

BAIL IN THIS CASE IS FIXED AT

\$ 200,000

Dally Freeman
Judge of Circuit Court of Montgomery County

CC NO. _____

SEEP 101

POWER

(initials)

Presented in open Court by the Foreperson of

the Montgomery County Grand Jury in the presence of 14 other members of the Grand Jury and filed this 14th day of

July, 02.

Shelia Titman

Clerk of the Circuit Court of Montgomery County

WITNESSES

Lakeshia Atkins
4547 Hurston Dr 36116
WK: Arby's
3A1vin Ray Bly
6600 Willow Springs Dr Hope Hull 36
C.J. Butterbaugh
WK: MPD

THE STATE OF ALABAMA
MONTGOMERY COUNTY

Circuit Court of Montgomery County, July Term, A.D. 2002

The Grand Jury of said County charge that, before the finding of this indictment,

CHARLES SMITH, alias
CHARLES SMITH, JR.,

whose name is otherwise unknown to the Grand Jury, did, in the course of committing a theft of lawful currency and/or coinage of the United States of America, of some value, a better description of which is unknown to the Grand Jury, use force against the person of the owner or any person present, Lakeshia Atkins, with intent to overcome her physical resistance or physical power of resistance, or threaten the imminent use of force against the person of the owner or any person present, Lakeshia Atkins, with intent to compel acquiescence to the taking of or escaping with the property, while the said Charles Smith, alias was armed with a deadly weapon or dangerous instrument, a gun, a better description of which is unknown to the Grand Jury, in violation of Section 13A-8-41 of the Code of Alabama,

against the peace and dignity of the State of Alabama.


District Attorney, Fifteenth Judicial Circuit of Alabama

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Unified Judicial System

WARRANT OF ARREST
(Felonies, Misdemeanors, or Violations)

2002F00725

Case Number

DCD2-1217

Form C65 (front) Revised 11/92

IN THE DISTRICT COURT OF MONTGOMERY, ALABAMA
(Circuit, District, or Municipal) Name of Municipality or County

☒ STATE OF ALABAMA ☐ MUNICIPALITY OF _____

v. CHARLES SMITH, Defendant

TO ANY LAW ENFORCEMENT OFFICER WITHIN THE STATE OF ALABAMA:

☒ Probable cause has been found on Complaint filed in this Court Against (name or description of person to be arrested)

CHARLES SMITH

Charging: [description of offense(s)] ROBBERY FIRST DEGREE

in violation of §13A-8-41 Code of Alabama 1975; OR

☐ An indictment has been returned by the Grand Jury of this county against (name of person to be arrested)

Charging: [description of offense(s)] _____

in violation of _____

☒ **YOU ARE THEREFORE ORDERED** to arrest the person named or described above and bring that person before a judge or magistrate of this Court to answer the charges against that person and have with you then and there this warrant with your return thereon. If a judge or magistrate of this Court is unavailable, or if the arrest is made in another county, you shall take the accused person before the nearest or most accessible judge or magistrate in the county of arrest.

☒ You may release the accused person without taking the accused person before a judge or magistrate:

☒ If the accused person enters into a bond in the amount of \$ 200,000.00 with two good sureties approved by an authorized officer or by depositing cash or negotiable bonds in the amount with the court clerk; OR

☒ If the accused person posts an appearance bond in the amount of \$ 200,000.00

☐ On his or her personal recognizance.

2002 APR 28 A 8:11
JUDGE OF DISTRICT COURT

April 28, 2002 at 5:25 AM
Date

D.I. MARSHALL, SHERIFF

[Signature]
Judge/Magistrate/Clerk

2002 APR 28 A 6:24

CERTIFICATE OF EXECUTION

I, the undersigned law enforcement officer, certify that I executed the foregoing ARREST WARRANT by arresting the accused person names (or Described) therein 10:45 o'clock ☒ a.m. ☐ p.m., on the 28th day of April, 2002, in MONTGOMERY COUNTY, ALABAMA.

After arrest, the accused person was:

☐ Released as authorized at _____ o'clock ☐ a.m. ☐ p.m., _____

☐ Taken before ☐ Judge ☐ Magistrate at _____ o'clock ☐ a.m. ☐ p.m., _____

☒ Placed in jail at 2:15 ~~#15~~ o'clock ☐ a.m. ☐ p.m. April 28th, 20 02
4/28/02 Date K. Byrd #130 MPD Signature/Title/Agency

IDENTIFICATION OF ACCUSED PERSON

Name of Accused Person CHARLES SMITH				Telephone Number	
Social Security Number 419-88-6398	Date of Birth 01/31/1958	Age	Race B	Sex M	Height 508
Weight 210	Hair Black	Eyes Brown	Drivers License Number & State of Issue		
Address 2703 GENEVA ST		City MONTGOMERY	State AL	Zip Code 36107	
Name of Employer			Employer's Telephone Number		
Address		City	State	Zip Code	

WITNESSES

Name	Address	Telephone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

ACKNOWLEDGMENT BY ACCUSED PERSON

☐ I hereby acknowledge that at the time of my release I was directed to appear in person before the court, as follows:

Place: _____

Date: _____

Time: _____ o'clock ☐ a.m. ☐ p.m., and as thereafter needed until discharge.

☐ I promise to appear as directed before the court, as follows:

Place: _____

Date: _____

Time: _____ o'clock ☐ a.m. ☐ p.m., and as thereafter needed until discharge.

Date _____

Signature of Accused _____

Case # 02-010249

AFFIDAVIT

2002 F-725

DISTRICT COURT OF MONTGOMERY ALABAMA

INSTRUCTIONS: Complete the following information on OFFENSE/OFFENDER

Offense: ROBBERY 1ST DEGREEDefendant's Name: Charles Smith B/M D.O.B. 01/31/1958Defendant's SSN: 419-88-6398 Height: 5'08 Weight: 210Defendant's Address: 2703 Geneva Street Montgomery, Al 36107Date & Time of Offense: 04/28/02 @ 0040 HoursPlace of Occurance: 5759 Atlanta Hwy Montgomery, AlabamaPerson or Property Attacked: Arby's # 5691How Attacked: with gun (robbed)

Damage Done or Property Attacked: _____

Value of Property: _____

Details of Offense:

On Sunday, 04/28/02, at 0040 Hours, the defendant, after being hidden in the ceiling tile of the bathroom, did, after closing, come out of hiding armed with a handgun, and demand the business currency. After securing the currency, the defendant did flee the business in a vehicle only to be apprehended after a vehicle pursuit.

This offense is in violation of the Criminal Code of Alabama section 13A-8-41.

This offense occurred in the State of Alabama, County of Montgomery, City of Montgomery.

I make this affidavit for the purpose of securing a warrant against the said Charles Smith B/M. I understand that I am instituting a criminal proceeding and cannot drop this case. I further understand that if any of the forgoing facts are untrue, I may, in addition to any other punishment provided by law, be taxed with court costs in this proceeding.

Sworn to and subscribed before me
this 28th day of April 2002.

[Signature]
Complainant

[Signature]
Judge - Clerk - ~~Magistrate~~

WITNESSES: (Name, Address, Telephone Number)

- 1) Alvin Ray Bly, 6600 Willow Springs Dr, Hope Hull, Alabama 36043
- 2) Lekishia Adkins, 4547 Hurlston Dr, Montgomery, Alabama 36116
- 3) Det CJ Butterbaugh 053,320 N. Ripley St, Montg, Al 36104

State of Alabama
Unified Judicial System**COMPLAINT**Number
2002F00725

Case Number

Form CR-6

Revised 8/98

(Felonies, Misdemeanors, or Violations-
District Court or Municipal Court)

02-02-1217

IN THE DISTRICT COURT OF MONTGOMERY, ALABAMA
(Circuit, District or Municipal) (Name of Municipality or County)☒ STATE OF ALABAMA☐ MUNICIPALITY OF MONTGOMERY v. CHARLES SMITH

Defendant

Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath that he/she has probable cause for believing, and does believe, that CHARLES SMITH, defendant whose name is otherwise unknown to the complainant, did, prior to the commencement of this action, on or about 04/28/2002 (date of occurrence) commit the offense of ROBBERY FIRST DEGREE within the

☒ County of MONTGOMERY☐ City/Town of _____ or in the police jurisdiction thereof, in that he/she did:

(State specific facts here. Continue on a separate sheet of paper if needed.) _____ in the course of committing a theft of property, as stated or

described in the attached Affidavit, use force or threaten the imminent use of force against the said person or another person present,

with the intent to overcome his/her physical resistance or physical power of resistance, or to compel the acquiescence to the taking of or

escaping with the property (select as appropriate):

(a)(1) ☒ while the Defendant was armed with a deadly weapon or dangerous instrument as stated or described in the attached Affidavit;(a)(2) ☐ and at the time caused serious physical injury to said person or another person as stated or described in the attached Affidavit;

in violation of

☒ Section 13A-8-41, Code of Alabama 1975.☐ Municipal Ordinance Number _____, which embraces Section _____

Code of Alabama 1975, previously adopted, effective and in force at the time the offense was committed.

☐ Other _____

Sworn to and Subscribed before me this

28th day ofApril, 2002

Judge/Magistrate/Warrant Clerk

Complainant

3332 Royal Carriage Dr

Address

212-4780

Telephone Number

WITNESSES

Name

Address

Telephone Number

Additional Witnesses on Reverse Side.

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA
Plaintiff,

v.

CHARLES SMITH,
Defendant.

CC No. 02-0920-SMG

NOTICE OF DISCOVERY

COMES NOW the State of Alabama by and through its District Attorney for the Fifteenth Judicial Circuit, Eleanor I. Brooks, and gives notice of discovery to the defendant, notice of intent to use prior convictions, notice of intent to invoke sentencing enhancements, notice of intent to offer proof by a certificate of analysis, and motion for discovery by the State:

(☒) 1. Pursuant to Rule 16.1, A.R.Cr.P., and as otherwise required by law, all available discovery has been provided or made available to the Defendant. Arrangements to inspect physical evidence may be made by contacting the undersigned.

The State of Alabama has furnished a copy of the discovery by sequentially Bates numbered pages from 000001 thru 000044. (Pages 4/1 have not been provided as they are either work product and/or NCIC, which cannot be provided pursuant to state law, unless ordered by the Court). The State of Alabama considers this discovery material to have been received in its entirety by Defense Counsel unless promptly notified in writing of any discrepancies.

(☒) 2. The State of Alabama intends to use at trial any and all prior convictions, crimes, wrongs, or acts of the Defendant permitted by Rules 404(b) and 609 of the Alabama Rules of Evidence, and as otherwise allowed by law. The State of Alabama is presently aware of, and intends to use, the following:

GRAND LARCENY AUTO (B'HAM 8-8-74) - DISP. UNKNOWN

ROB I (B'HAM 9-10-75) - DISPOSITION UNKNOWN

BURG/BURG TOOLS / GRAND LARCENY AUTO (B'HAM 12-20-78) - DISP. UNK

ASSAULT TO MURDER / ROB (B'HAM 11-27-80) - DISP. UNK

ROB I (B'HAM 8-17-81)

State of Alabama V. Charles Smith
Motion for Discovery
September 3, 2002
Page 2 of 3

(☒) 3. The State of Alabama intends to invoke all sentencing enhancements required or permitted by law, including the Habitual Felony Offender Act, pursuant to §13A-5-9, Code of Alabama, 1975, based on any applicable felony convictions known or any which may subsequently be discovered and/or disclosed. And, if applicable, the following:

(☒) Enhancement for use of firearm or deadly weapon. Minimum term of imprisonment of 20 years.

(☐) Five Year enhancement for Sale of Drugs within three (3) miles of a school, §13A-12-250.

(☐) Five Year Enhancement for Sale of Drugs within three (3) miles of housing project, §13A-12-281.

(☐) \$1,000.00 Fine, §13A-12-281.

(☐) \$2,000.00 Fine, §13A-12-281.

(☐) Suspension of Driver's License, §13A-12-290.

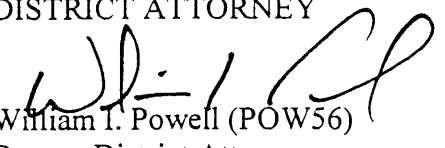
(☐) Five Year Enhancement for Possession of Firearm, §13A-12-231(13).

(☒) 4. Pursuant to §§ 12-21-300 through 303, Code of Alabama, 1975, written notice is hereby given of the State's intent to offer proof by a certificate of analysis in lieu of direct testimony. The certificate of analysis is from the Alabama Department of Forensic Sciences and a copy is included in the discovery material.

(☒) 5. Pursuant to Rules 16.2 and 16.4(c), A.R.Cr.P., and as otherwise required by law, the Defendant is to provide the State of Alabama, within seven (7) days, a copy of all discovery to which it is entitled.

Respectfully submitted this 4th day of September, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY

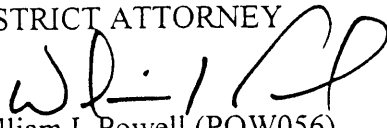
By: 
William I. Powell (POW56)
Deputy District Attorney

State of Alabama v. Charles Smith
Motion for Discovery
September 3, 2002
Page 3 of 3

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the Honorable Winston Durant, Attorney for the Defendant, by hand delivery or by placing same in the appropriate Courthouse Box, or by posting in the United States mail, postage prepaid and properly addressed, on the 4th day of September, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY

By:  William I. Powell (POW056)
Deputy District Attorney

IN THE DISTRICT COURT OF
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA

Plaintiff,

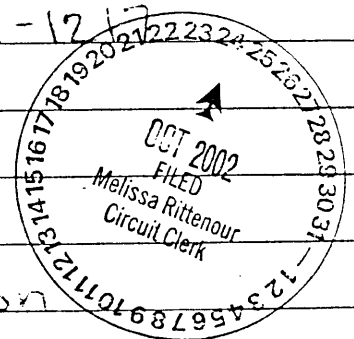
vs.

Charles Smith

Defendant.

CC 2002 920 SMC

Case No. DC-02-1217



Defendant's Motion For Bond Reduction

The defendant, by and through undersigned counsel, hereby respectfully requests that this Honorable court reduce the bond presently set in the abovesyle case(s) and/or allow undersigned counsel to be heard on the merits of this Motion.

Respectfully submitted,
Charles Smith

Certificate of Service

JUDGE:

COURT REPORTER:

PANELS

DATE:

Drankam
Neuma
15-19
10-28-02

CASE CC 02-0920

CHARGE:

RoffeyState

VS

Charles SmithATTY: Will PowellATTY: Winston Durant

	PLANTIFF	DEFENDANT			
1	389	309			
2	314	356			
3	327	380			
4	339	411			
5	390	382			
6	326	298			
7	375	395			
8	392	340			
9	328	313			
10	363	371			
11					
12					
13					
14					
15					

No. Jur. No. Stk.

12	0
14	1
16	2
18	3
20	4
22	5
24	6
26	7
28	8
30	9
32	10
34	11
36	12
38	13
40	14
42	15

RECEIVED

10-29-02
 CIRCUIT COURT CLERK

16



STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS

DON SIEGELMAN
GOVERNOR

MICHAEL W. HALEY
COMMISSIONER

October 24, 2002

Mr. William I. Powell
Montgomery County District Attorney's Office
P. O. Box 1667
Montgomery, AL 36102-1667

Dear Mr. Powell:

This is to certify that I (Betty Teague) am Director, Central Records Office, and that I am the legal custodian of inmate central records on file with the Alabama Department of Corrections and the enclosed or attached documents are true and correct copies taken directly from the records on file with the Department of Corrections and pertain to none other than the person whose name appears hereon:

Charles Smith, Sr.
NAME

129560
NUMBER

B/M
R&S

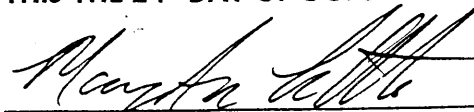
Jefferson
COUNTY

DOCUMENTS ENCLOSED/ATTACHED

- (A) Transcripts – CC1981- 530
- (B) Inmate Summary of 09/22/1986
- (C) Receipt of Released Convict Form


BETTY H. TEAGUE
Director of Records

SWORN TO AND SUBSCRIBED BEFORE ME
THIS THE 24th DAY OF OCTOBER 2002


Mary Ann Little, Notary Public
State of Alabama at Large
MY COMMISSION EXPIRES JULY 19, 2006

RECEIVED
11-12-08
CLERK OF COURT

TRANSCRIPT

Circuit 11

The State of Alabama

JEFFERSON COUNTY

THE CIRCUIT COURT OF JEFFERSON COUNTY

No. CC 81-00330

THE STATE vs.

Charles Smith, Sr.

Robbery

Hon. J. H. Rice, Judge

This the 30 day of July, 19 81, came Earl C. Morrell, District Attorney, who prosecutes for the State of Alabama, and also came the Defendant in his own person, and by his attorney, and the said Defendant being duly arraigned upon said indictment, for his plea thereto, says

that he is not guilty of Robbery in the First Degree. We, the Jury, find the defendant guilty of robbery in the first degree in the indictment, as charged in the indictment. Georges R. Wilmet, Foreperson.

And on this the 30 day of July, 19 81, the said Defendant being now in open Court and being asked by the Court if he had anything to say why the judgment of the Court and the sentence of the law should not now be pronounced upon him says nothing. It is therefore considered by the Court and it is the judgment of the Court that the Defendant is guilty as charged in the indictment and it is the sentence of the law that the said Defendant, the said Charles Smith, Sr. be imprisoned in the PENITENTIARY of the State of Alabama for a term of Twenty years.

DO# 11-28-80

7-30-81 Defendant gives notice of appeal

And it is hereby ordered that the Defendant be credited with all of his actual time spent incarcerated in the Jefferson County Jail, a period of 21, pending trial of this cause unless he was serving time for another offense.

The State of Alabama

JEFFERSON COUNTY

As Clerk of the Circuit Court of Jefferson County, Alabama, I hereby certify that the within is a true and correct copy of the judgment entry and sentence in the within stated cause.

Witness my hand this 30 day of July, 19 81.

Orley Combs, Clerk.

DESCRIPTION OF CONVICT

Color B Sex M Age 31-58 Married Occupation Health
Names and address of relatives

3-1-84 Amended Transcript

TRANSCRIPT

CIRCUIT-1

The State of Alabama

JEFFERSON COUNTY

THE CIRCUIT COURT OF JEFFERSON COUNTY

N.C.C. 81-00530

THE STATE vs.

Charles Smith

Robbery 1st

Jury - Charles Niece, Judge Presiding

This the 30 day of July 19 81 came Earl G. Moran

District Attorney who prosecutes for the State of Alabama, and also came the Defendant in his own proper person

and by his attorney, the said Defendant, being duly arraigned upon said indictment, for his plea thereto, says

that he is/is not guilty of Robbery in the First Degree as charged

We, the Jury, find the defendant guilty of robbery in the first degree in the indictment as charged in the indictment. Georges R. Wilmet, Foreperson

And on this the 30 day of July 19 81, the said Defendant being now

in open Court and being asked by the Court if he had anything to say why the judgment of the Court and the sen-

tence of the law should not now be pronounced upon him says nothing. It is therefore considered by the Court and

it is the judgment of the Court that the Defendant is guilty as charged in the indictment and it is the sentence of

the law that the said Defendant, the said Charles Smith, Sr. be imprisoned in the

PENITENTIARY of the State of Alabama for a term of Twenty years.

DOA 11-28-80

7-30-81 Defendant gives notice of appeal

XXXX 1-30-84 Certificate of Affirmance

And it is hereby ordered that the Defendant be credited with all of his actual time spent incarcerated in the Jeff-

erson County Jail, a period of 21, pending trial of this cause unless he was

serving time for another offense.

The State of Alabama

JEFFERSON COUNTY

As Clerk of the Circuit Court of Jefferson County, Alabama, I hereby certify that the within is a true and correct copy of the judgment entry and sentence in the within stated cause.

Witness my hand this 30 day of July 19 81

Clerk.

DESCRIPTION OF CONVICT

Color B Sex M Age 1-31-50 Married Occupation Health

Names and address of relatives

MISSISSIPPI DEPARTMENT OF CORRECTIONS
INMATE SUMMARY AS OF 07/22/86

INMATE: SMITH, CHARLES SR RACE: B SEX: M
INSTITUTION: 063 WEST JEFFERSON CORR. FACILITY DAILY CR: 00.00
DOB: 01/31/58 SSN: 419-88-6398 PREVIOUS AYS: P001157
ADM DT: 08/17/81 DEAD TIME: 00Y 00M 00D PD: 7-93

ADM TYP: NEW COMIT FROM CRT W/O REV OF PROG STAT: NEW COMIT FROM CRT W/O
CURRENT CUSTODY: COM-9 (7-11-90) CURRENT CUSTODY DATE: 7-11-90

SERVING UNDER ACT 446 LAW IN CLASS IV CURRENT CLASS DATE: 07/30/81
INMATE IS EARNING: PROHIBITED FROM EARNING GOODTIME

COUNTY SENT DT CASE NO CRIME JL-CR
JEFFERSON 07/30/81 N81000530 ROBBERY I 00210 020Y 00M 00D
COURT COSTS: \$3000000 FINES: \$0000000 RESTITUTION: \$0.0000

TOTAL TERM MIN REL DT GOOD TIME BAL LONG DATE
020Y 00M 00D 07/08/2001 000Y 00M 00D 07/08/2001

INMATE LITERAL:

DETAINER WARRANTS SUMMARY

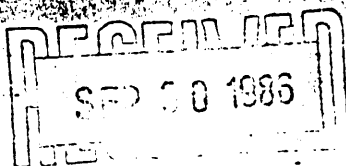
INMATE CURRENTLY HAS NO DETAINER-WARRANT RECORDS

ESCAPEE-PAROLE SUMMARY

INMATE CURRENTLY HAS NO ESCAPE OR PAROLE RECORDS

DISCIPLINARY SUMMARY

>>DISCIP 01/28/86 TIME LOST: 00Y00M00D CUST FROM MIN9 TO MIN9
DISCIP TYPE: MAJOR AT INST: 024 RULE NUMBER: 35
RETAINED DAYS: 0000 SEQ #: 04 RULE LIT: FIGHTING WITHOUT A WEAPON
>>DISCIP 01/02/85 TIME LOST: 00Y00M00D CUST FROM MIN9 TO MIN9
DISCIP TYPE: MAJOR AT INST: 063 RULE NUMBER: 64
RETAINED DAYS: 0000 SEQ #: 03 RULE LIT: POSSESSION OF CONTRABAND
>>DISCIP 10/22/84 TIME LOST: 00Y00M00D CUST FROM MIN9 TO MIN9
DISCIP TYPE: MAJOR AT INST: 063 RULE NUMBER: 64
RETAINED DAYS: 0000 SEQ #: 02 RULE LIT: POSSESSION OF CONTRABAND



11-13-85
CONTINUED ON NEXT PAGE

20

ORM CARD

STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS
RECEIPT OF RELEASED CONVICT

DATE: 04/22/93 R

930722-056

CJP216

INSTITUTION: MONTGOMERY WORK RELEASE

DATE RELEASED: SEP 27, 1993

NAME: SMITH, CHARLES SR

SERIAL NUMBER: 00127560

COUNTY COMMITTED FROM: JEFFERSON

DATE COMMITTED: JUL 30, 1981

HOW RELEASED: PAROLE - PGBH

REMARKS:

RECEIVED FROM WARDEN:

DOLLARS:

IN FULL PAYMENT OF AMOUNTS AS SET OUT BELOW

DISCHARGE MONEY: 12 YR. 03 MO. \$ 24.00

BUS FARE TO:

1 DAY TRAVEL

1 OUTFIT CLOTHING

TOTAL

SIGNED

WITNESS

WITNESS

DETAINER/WARRANT
RECEIPT SIGNATURE

Address
 3555 - Tree Pond
 Montgomery ALA
 211 36110
 Home 834 9777
 SS # 419-88-638

PAID 5264
 1700
 5-019

 * NOTE: ALL SIGNATURES MUST BE MADE IN INK. *

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA

v.

CHARLES SMITH,
Defendant.

Case No. CC-02-920-SMG

STATE'S LIST OF POTENTIAL WITNESSES
FOR VOIR DIRE EXAMINATION

COMES NOW the State of Alabama, by and through the District Attorney for the
Fifteenth Judicial Circuit, Eleanor I. Brooks, and submits the following list of potential
witnesses for purpose of voir dire examination:

1. Det. C. J. Butterbaugh
2. LaKeshia Atkins
3. Alvin Ray Bly
4. Trudale Jackson
5. Zenetta Roberson
6. Shontrice Roberson
7. Pof. M. M. Barber
8. Pof. T. J. Koerner
- 9. Pof. T. E. Roberts
10. Pof. E. L. Johnson
11. Det. B. F. Harrison
12. Pof. M. E. Higgins
13. Pof. D. I. Burnett
14. Pof. C. L. Collum

WHEREFORE, the State respectfully submits the above list of witnesses to be
presented to the jury venire during voir dire examination.

RECEIVED

10-29-08

CIRCUIT CLERK

22

Respectfully submitted this the 28th day of October, 2002.

Eleanor I. Brooks,
District Attorney

By: W.I.P.
William I. Powell
Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served upon Wiley Hartley and/or Winston Durant by placing the same in the U.S. Mail, postage prepaid and properly addressed, or in the appropriate courthouse box or by hand delivery of the same to said attorney, done this the 28th day of Oct, 2002.

Eleanor I. Brooks,
District Attorney

By: W.I.P.
William I. Powell
Deputy District Attorney

23

State of Alabama

Unified Judicial System

Form C-50

Rev 6/88

JURY VERDICT

Case Number

CC-02-920 GR

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

Plaintiff: State of Alabama

v. Defendant: CHARLES SMITH

X

We the Jury find the Defendant GUILTY of Robbery
in the First Degree as charged in the indictment.

OR

 We the Jury find the Defendant NOT GUILTY.

James Pinkney

Name of Foreperson (please print)

James Pinkney

Signature of Foreperson

Date filed

10-29-02

JUDGEMENT IS HEREBY ENTERED
IN ACCORDANCE WITH THE
VERDICT OF THE JURY.

Sally Greenhaw

Circuit Judge

RECEIVED

10-29-02

CIRCUIT COURT CLERK

24

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

v.

CHARLES SMITH, SR.,

Defendant.

*

*

*

*


*

CASE NO. CC-02-920 GR

ORDER

The Court having found Defendant to be indigent, it is ORDERED that the Honorable Winston Durant is given leave to withdraw and the Honorable Kelly Vickers is appointed to represent Defendant in the above referenced matters on appeal.

DONE this the 12th day of November, 2002.


SALLY GREENHAW
CIRCUIT JUDGE

Pc:

Winston Durant, Esq.
Kelly Vickers, Esq.
District Attorney
Court of Criminal Appeals
Office of the Attorney General

RECEIVED
11-12-02
CIRCUIT COURT CLERK

ACR371

ALABAMA JUDICIAL DATA CENTER
 NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS
 BY THE TRIAL COURT CLERK

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY
 STATE OF ALABAMA VS SMITH CHARLES JUDGE: SARAH M. GREENHAW

APPEAL DATE: 11/12/2002

Oral Notice

INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:	--X--	YES	----	NO
APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL:	--X--	YES	----	NO
INDIGENT STATUS REVOKED ON APPEAL:	----	YES	--X--	NO
INDIGENT STATUS GRANTED ON APPEAL:	--X--	YES	----	NO

DEATH PENALTY: NO

APPEAL TYPE: STATE CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 10/29/2002

DATE OF SENTENCE: 11/12/2002

YOUTHFUL OFFENDER STATUS: DENIED

CO/CASE NUMBER: 03/CC 2002 000920.00

CODE: ROB1 CONVICTION: ROBBERY 1ST

ACTION: CONVICTED
STATUTE: 13A-008-041

SENTENCE: CONF: 20 YRS 00 MOS 000 DAYS
 SENTENCE: PROB: 00 YRS 00 MOS 000 DAYS

LIFE: NO LIFEWD: NO

POST-JUDGMENT MOTIONS FILED: DT FILED

DT DENIED

CON BY AGREE

--- MOTION FOR NEW TRIAL -----
 --- MOTION FOR JUDG. OF ACQUIT -----
 --- MOTION TO W/D GUILTY PLEA -----
 --- MOTION FOR ATTY TO W/DRAW -----
 --- OTHER -----

COURT REPORTER(S):

ADDRESS:

NEWMAN MEREDITH
 C/O HON. SALLY GREENHAW
 MONTGOMERY, AL 36102

APPELLATE COUNSEL #1:

ADDRESS:

VICKERS KELLY D
 P. O. BOX 230803

PHONE NUMBER:

MONTGOMERY, AL 36123
 334-202-7750

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

SMITH CHARLES
 5719 VALLEY BROOK LN
 MONTGOMERY, AL 361173236

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED
 ABOVE IS ACCURATE TO THE BEST OF MY
 KNOWLEDGE AND I HAVE SERVED A COPY OF
 THIS NOTICE OF APPEAL ON ALL PARTIES TO
 THIS ACTION ON THIS 19th DAY OF NOV., 2002

OPERATOR: DBH
 PREPARED: 11/12/2002

Melissa Pittman
 CIRCUIT COURT CLERK

26

ACR359

ALABAMA JUDICIAL DATA CENTER
MONTGOMERY COUNTY
TRANSCRIPT OF RECORD
CONVICTION REPORTCC 2002 000920.00 01
SARAH M. GREENHAW

CIRCUIT COURT OF MONTGOMERY COUNTY		COURT ORI: 003045 J	
STATE OF ALABAMA VS.		DC NO: GJ 2002 070256.00	
SMITH CHARLES	ALIAS:	G J:	0256
5719 VALLEY BROOK LN	ALIAS:	SSN:	419886398
MONTGOMERY AL 36117 3236		SID:	000775002
		AIS:	
DOB: 01/31/1958 SEX: M HT: 5 08 WT: 210 HAIR: BLK EYE: BRO RACE: ()W (X)B ()O COMPLEXION: AGE: FEATURES:			
DATE OFFENSE: 04/28/2002 ARREST DATE: 04/28/2002 ARREST ORI: 0030100			
CHARGES @ CONV	CITES	CT CL COURT ACTION	CA DATE
ROBBERY 1ST	13A-008-041	01 A CONVICTED	10/29/2002
		00	00/00/0000
		00	00/00/0000
JUDGE: SARAH M. GREENHAW		PROSECUTOR:	
PROBATION APPLIED	GRANTED	DATE	REARRESTED DATE
()Y()N	()Y()N	()Y()N	()Y()N
15-18-8, CODE OF ALA 1975	IMPOSED	SUSPENDED	TOTAL
()Y (X)N CONFINEMENT:	20 00 000	00 00 000	20 00 000
PROBATION :	00 00 000		00 00 000
DATE SENTENCED: 11/12/2002	SENTENCE BEGINS: 11/12/2002		
PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
PENITENTIARY	RESTITUTION	\$62.96	\$62.96
	ATTORNEY FEE	\$200.00	\$200.00
	CRIME VICTIMS	\$50.00	\$50.00
	COST	\$367.00	\$367.00
	FINE	\$2000.00	\$2000.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$2679.96	\$2679.96
APPEAL DATE	SUSPENDED	AFFIRMED	REARREST
()Y()N	()Y()N	()Y()N	()Y()N
REMARKS:		THIS IS TO CERTIFY THAT THE ABOVE INFORMATION WAS EXTRACTED FROM OFFICIAL COURT RECORDS AND IS TRUE AND CORRECT.	
WEAPON ENHANCEMENT APPLIED.			
50% OF MONIES TO COURT.			
DOC TO GIVE 60 DAY NOTICE PRIOR TO EOS.			
		MELISSA RITTENOUR(CC)	
		11/19/2002	

OPERATOR: DBH
PREPARED: 11/19/2002

02-920

27

State of Alabama Unified Judicial System Form ARAP- 26 (front) 8/91	COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	Criminal Appeal Number <u>CR. 02-0327</u>
---	--	--

A. GENERAL INFORMATION:

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Montgomery COUNTY
Charles Smith, Appellant

v. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF _____

Case Number <u>CC-02-920</u>	Date of Complaint or Indictment <u>7/19/02</u>	Date of Judgment/Sentence/Order <u>11/12/02</u>
Number of Days of Trial/Hearing <u>one</u> Days	Date of Notice of Appeal Oral: <u>11/12/02</u>	Written: _____
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

B. REPRESENTATION:

Is Attorney Appointed or Retained? ☒ Appointed ☐ Retained. If no attorney, will appellant represent self? ☐ Yes ☐ No

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary) <u>Kelly Vickers</u>		Telephone Number <u>334-669-0700</u>	
Address <u>P.O. Box 230803</u>	City <u>Montgomery</u>	State <u>AL</u>	Zip Code <u>36123</u>

C. CODEFENDANTS: List each CODEFENDANT and the codefendant's case number.

Codefendant	Case Number
Codefendant	Case Number
Codefendant	Case Number

D. TYPE OF APPEAL: Please check the applicable block.

<input checked="" type="checkbox"/> State Conviction	<input type="checkbox"/> Pretrial Order	<input type="checkbox"/> Juvenile Transfer Order	<input type="checkbox"/> Other (Specify) _____
<input type="checkbox"/> Post-Conviction Remedy	<input type="checkbox"/> Contempt Adjudication	<input type="checkbox"/> Juvenile Delinquency	
<input type="checkbox"/> Probation Revocation	<input type="checkbox"/> Municipal Conviction	<input type="checkbox"/> Habeas Corpus Petition	

E. UNDERLYING CONVICTION/CHARGE: Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

<input type="checkbox"/> Capital Offense - § _____	<input type="checkbox"/> Trafficking in Drugs - § _____	<input type="checkbox"/> Fraudulent Practices - § _____
<input type="checkbox"/> Homicide - § _____	<input checked="" type="checkbox"/> Theft - § <u>13A-8-41 Robbery</u>	<input type="checkbox"/> Offense Against Family - § _____
<input type="checkbox"/> Assault - § _____	<input type="checkbox"/> Damage or Intrusion to Property - § _____	<input type="checkbox"/> Traffic - DUI - § _____
<input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § _____	<input type="checkbox"/> Escape - § _____	<input type="checkbox"/> Traffic - Other - § _____
<input type="checkbox"/> Drug Possession - § _____	<input type="checkbox"/> Weapons/Firearms - § _____	<input type="checkbox"/> Miscellaneous (Specify): _____

F. DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☒ No

G. TRANSCRIPT:

1. Will the record on appeal have a reporter's transcript? ☒ Yes ☐ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. 12/16/02 (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk? ☐ Yes ☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☐ Yes ☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive

123456789101112131415161718192021222324252627282930

DEC 2002

CLERK OF COURT

Melissa Ritter

Carroll Clerk

CC-02-920

Charles 30
Smith

5

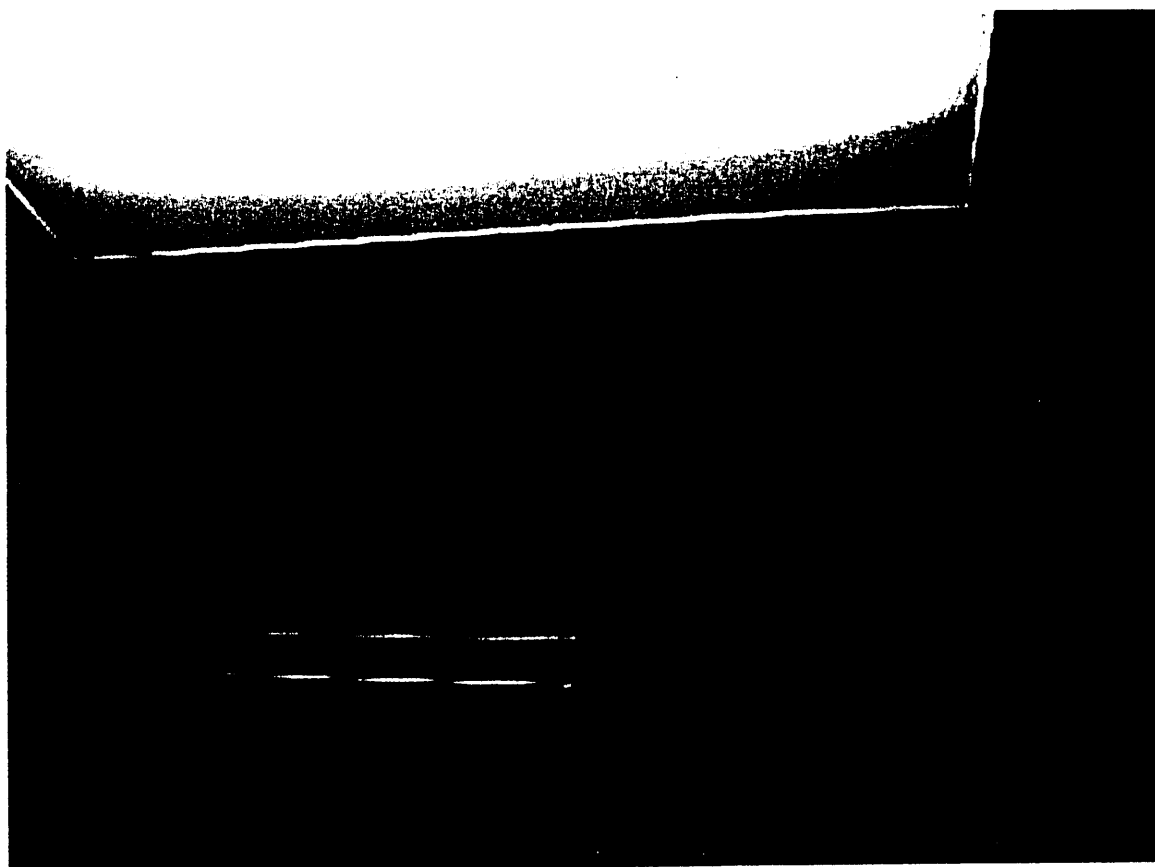
E X H I B I T S

STATE'S EXHIBITS:

EXHIBIT NO. 1	-- PICTURE OF DEFENDANT --	133
EXHIBIT NO. 2	-- PICTURE OF CEILING TILE -	193
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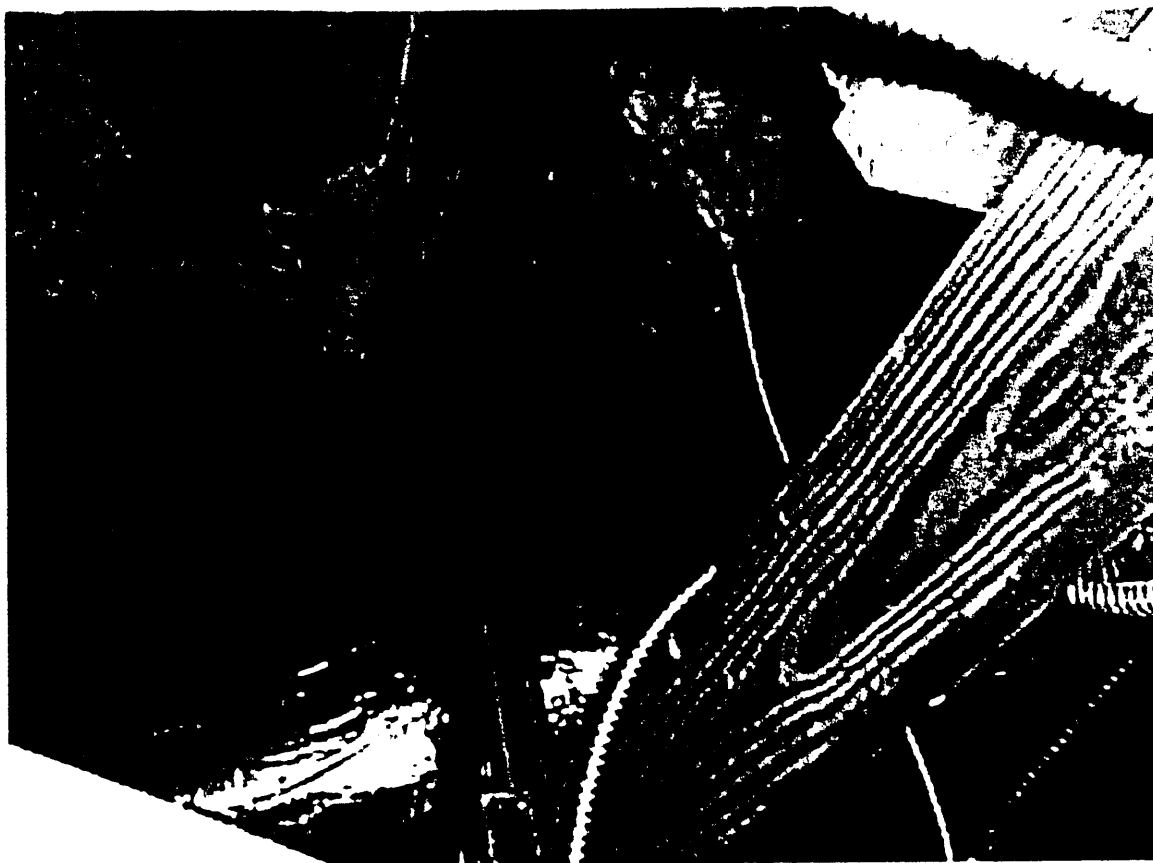
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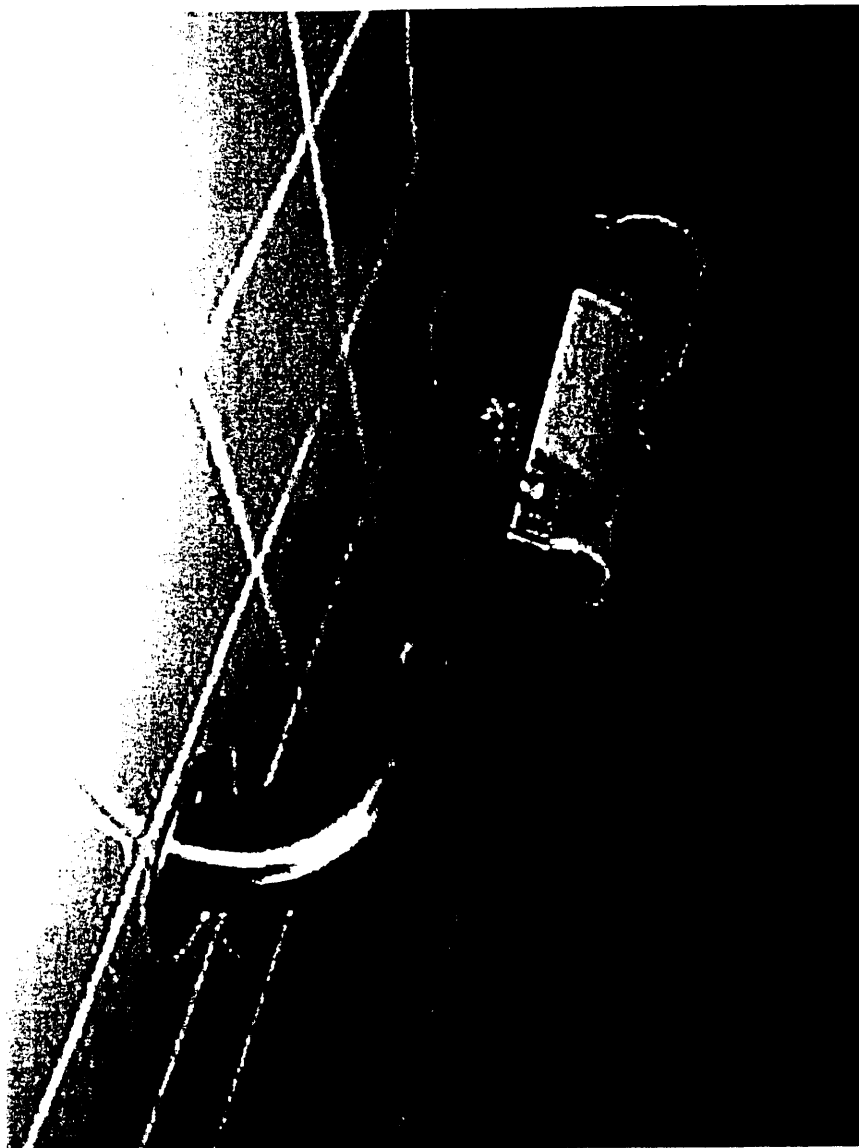


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EXHIBIT

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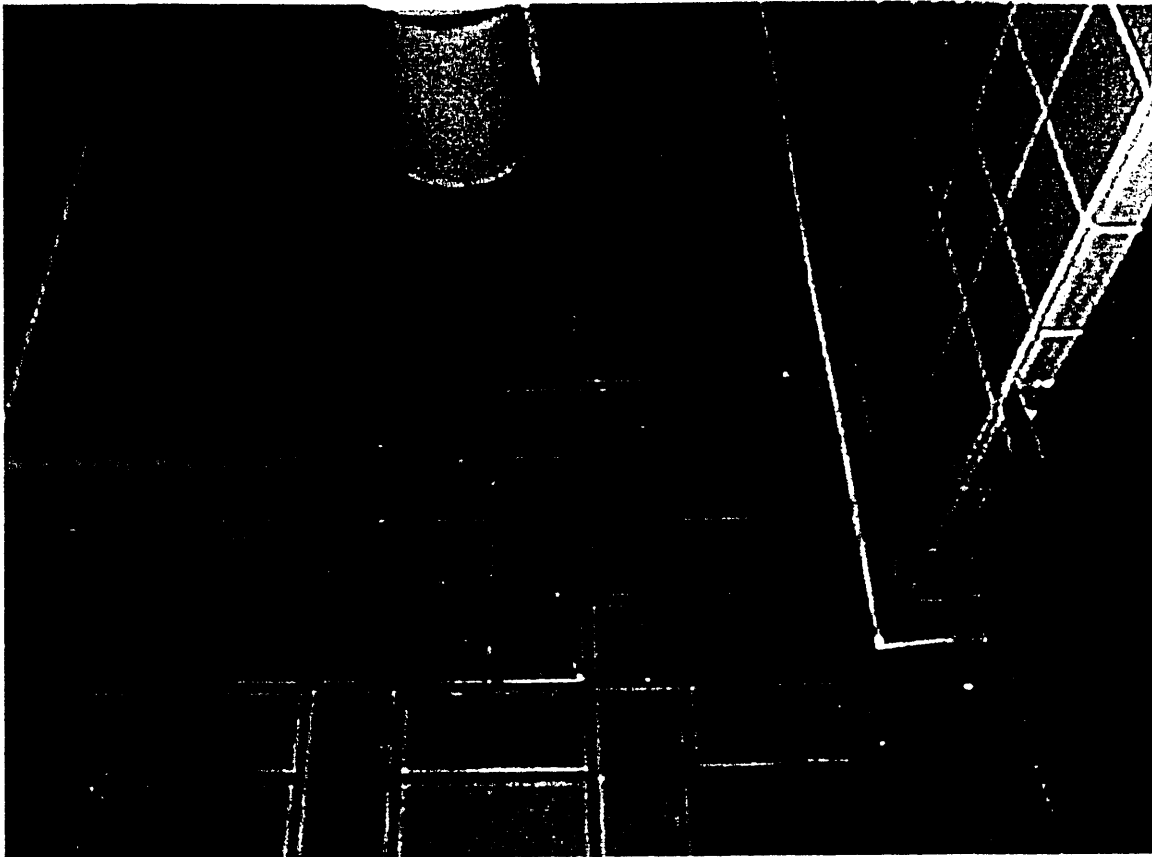


STATE'S
EXHIBIT



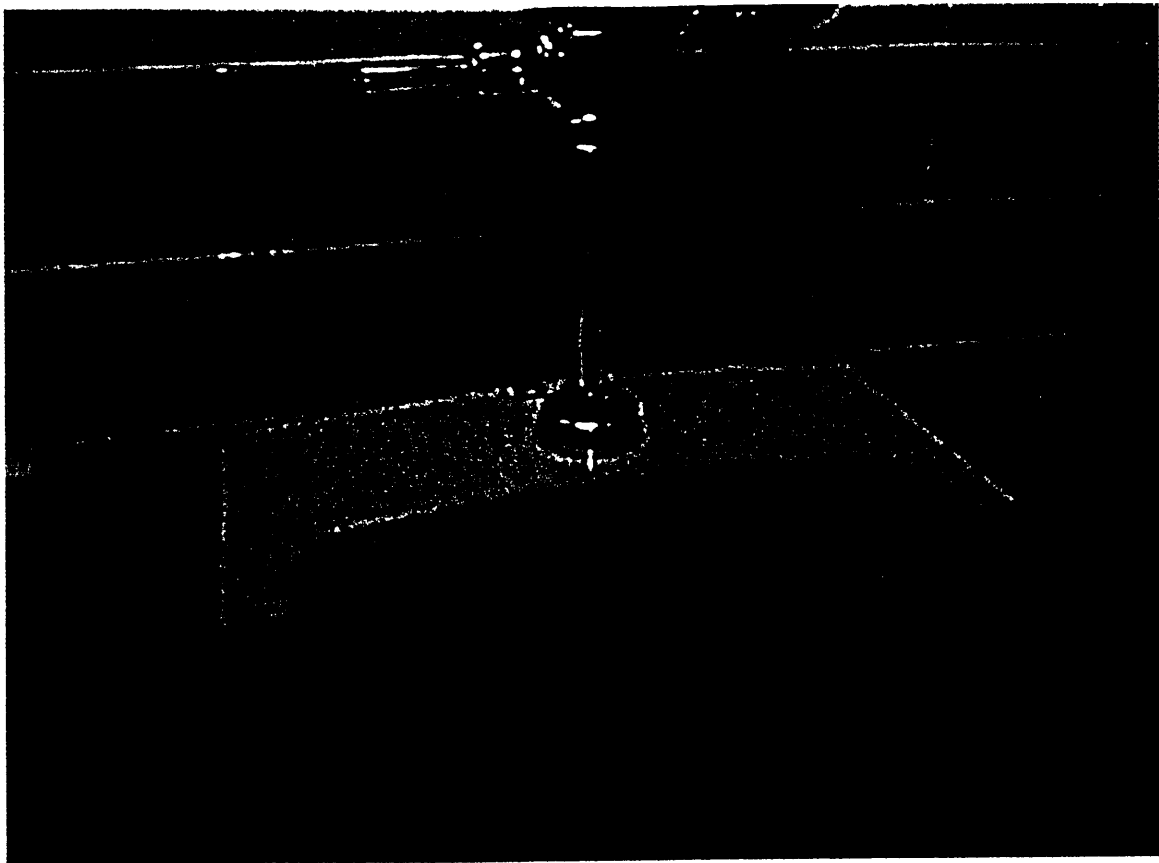
STATE'S
EXHIBIT

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STATE'S
EXHIBIT

5



**STATE'S
EXHIBIT**

6



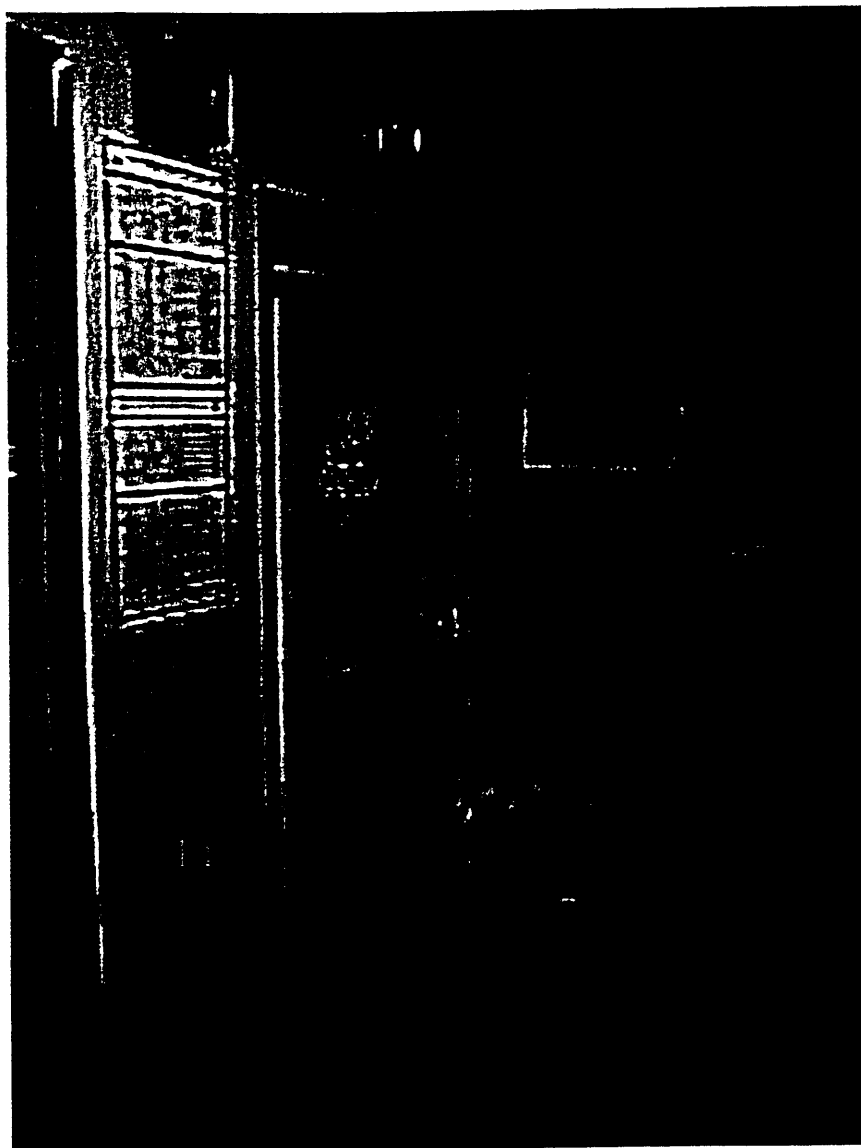
STATE'S
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STATE'S
EXHIBIT

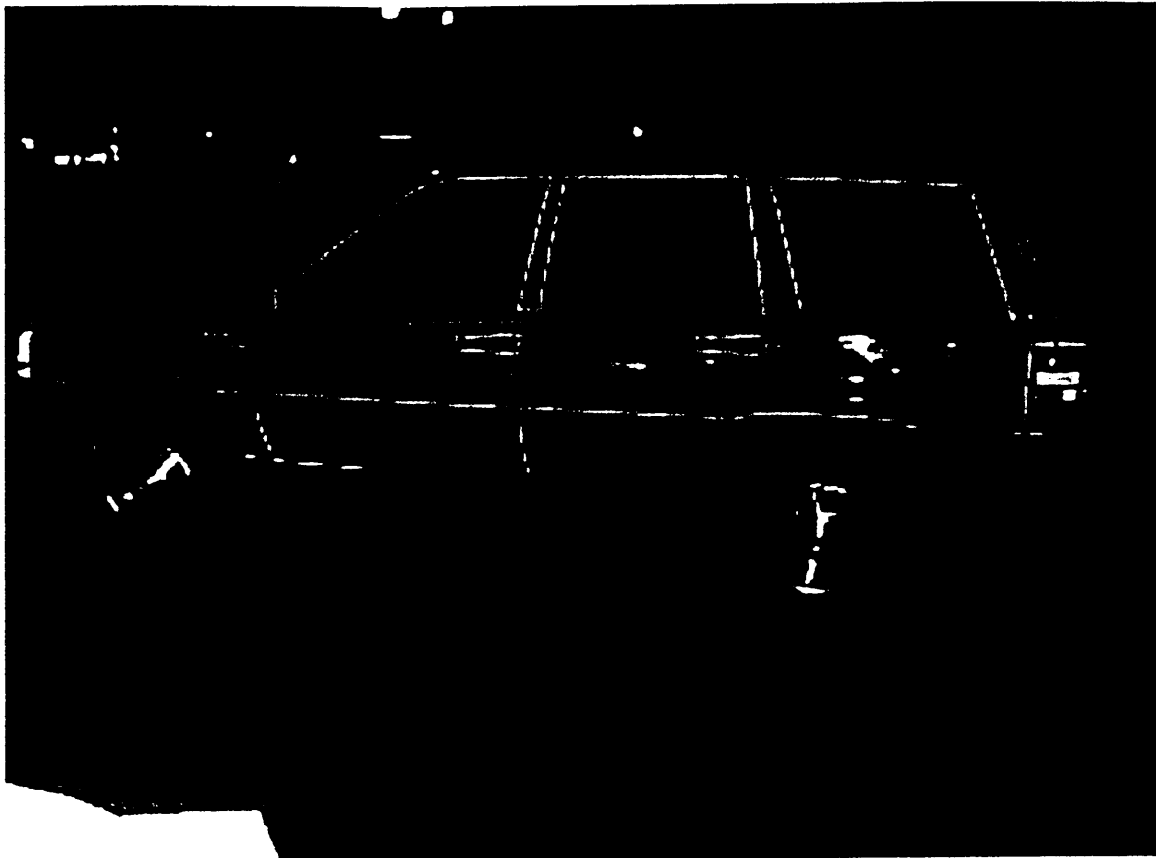
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STATE'S
EXHIBIT

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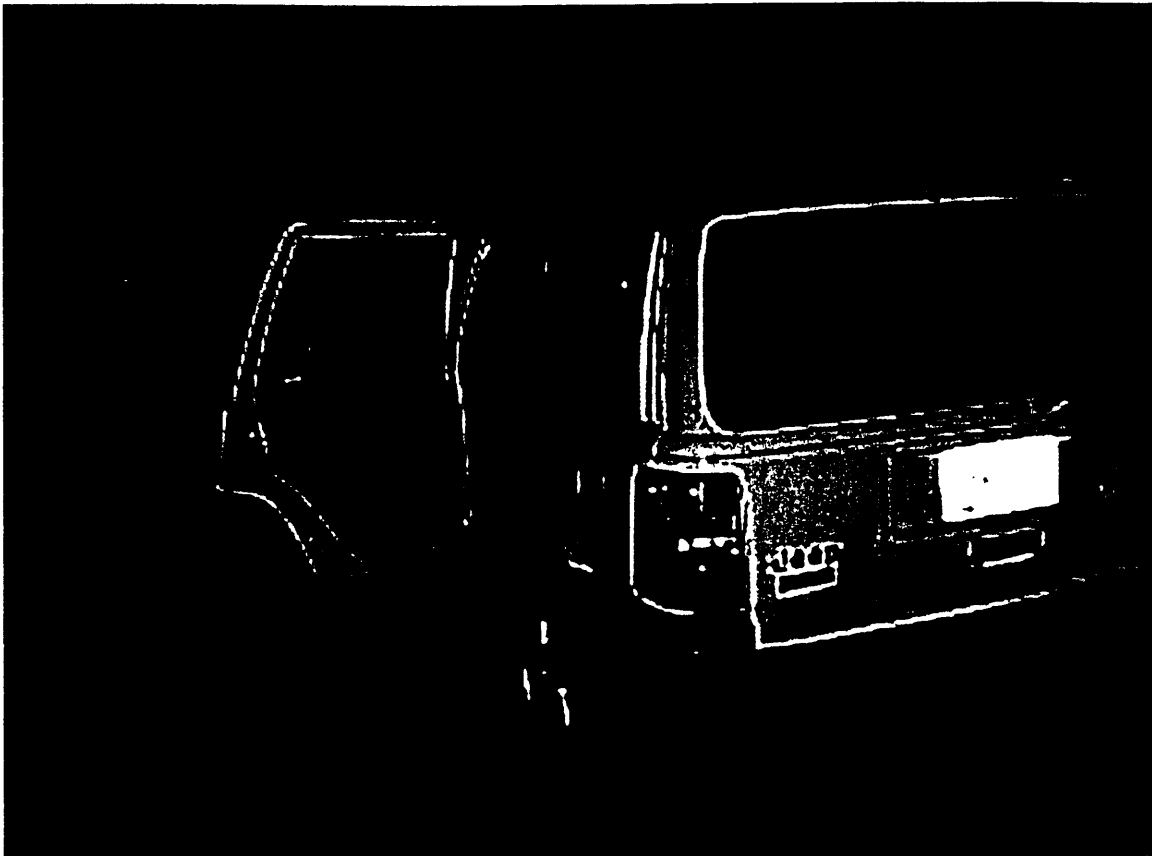
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STATE'S
EXHIBIT

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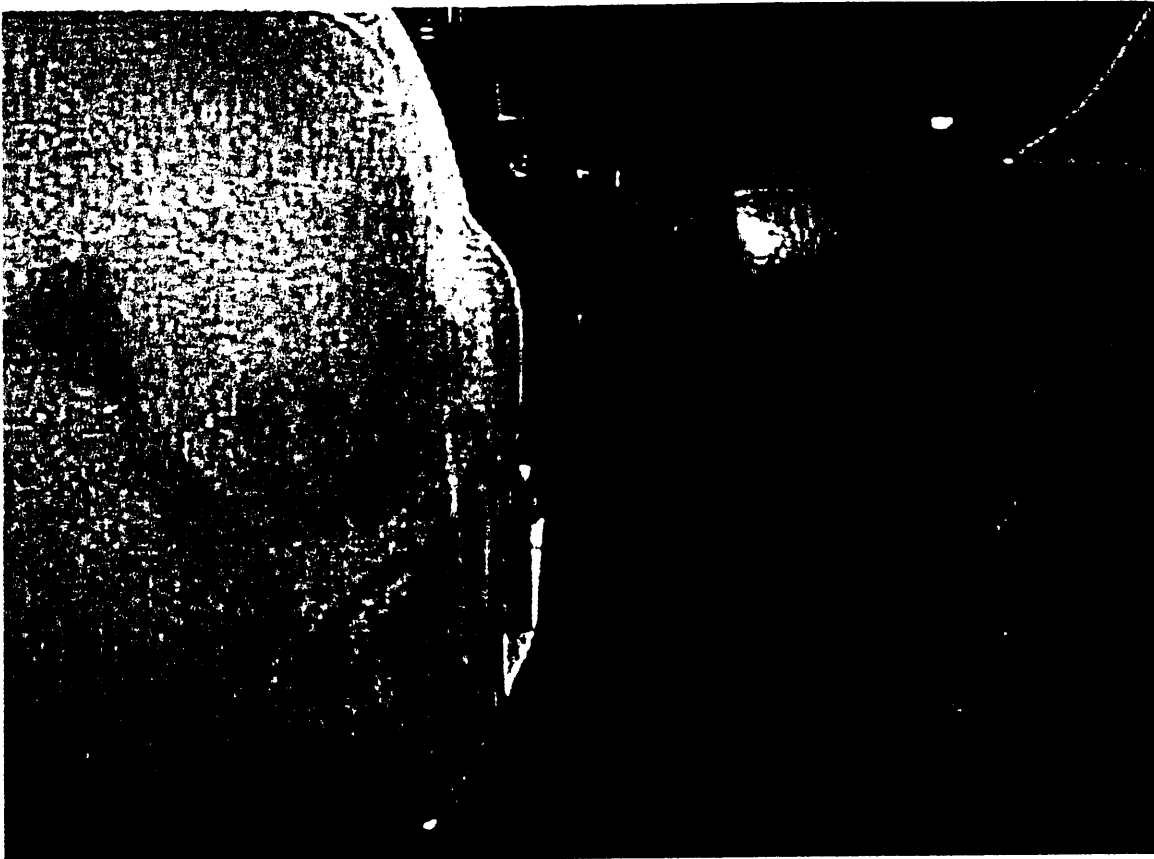
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STATE'S
EXHIBIT

11

42



STATE'S
EXHIBIT

12

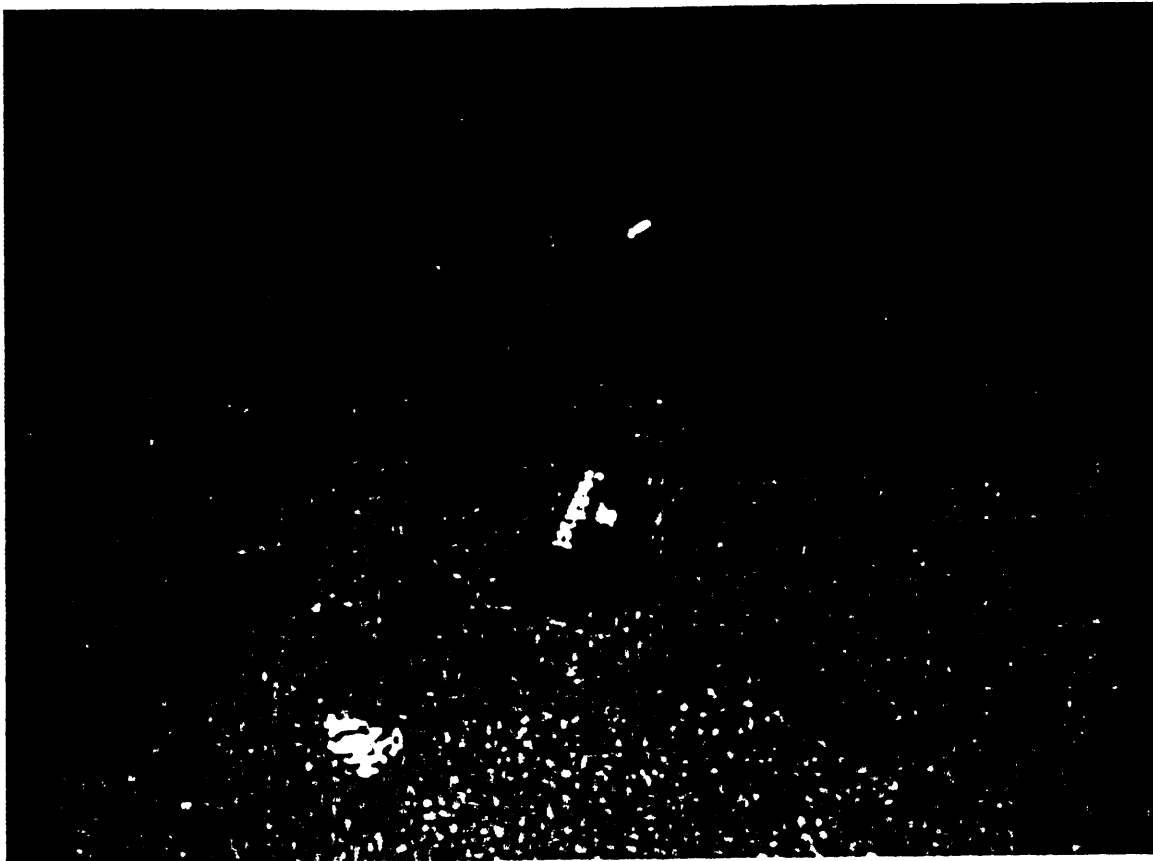
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STATE'S
EXHIBIT

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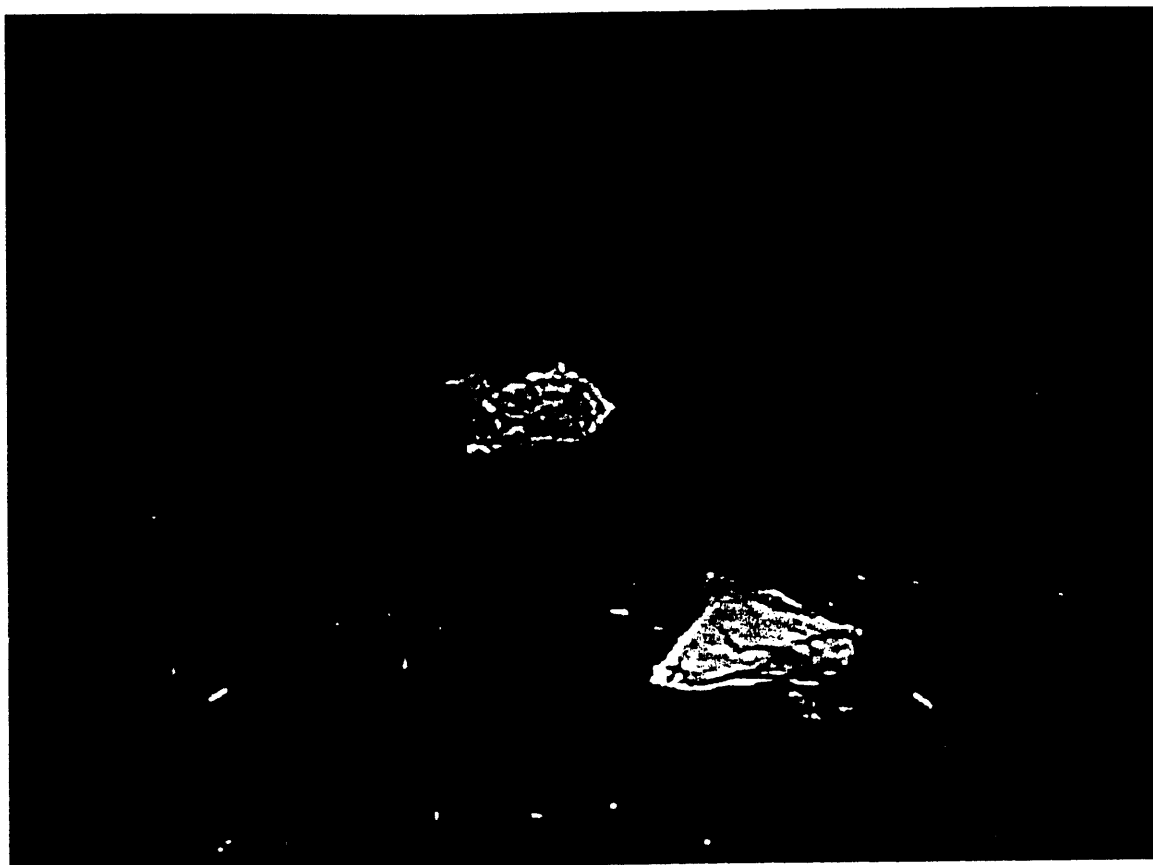
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STATE'S
EXHIBIT

14

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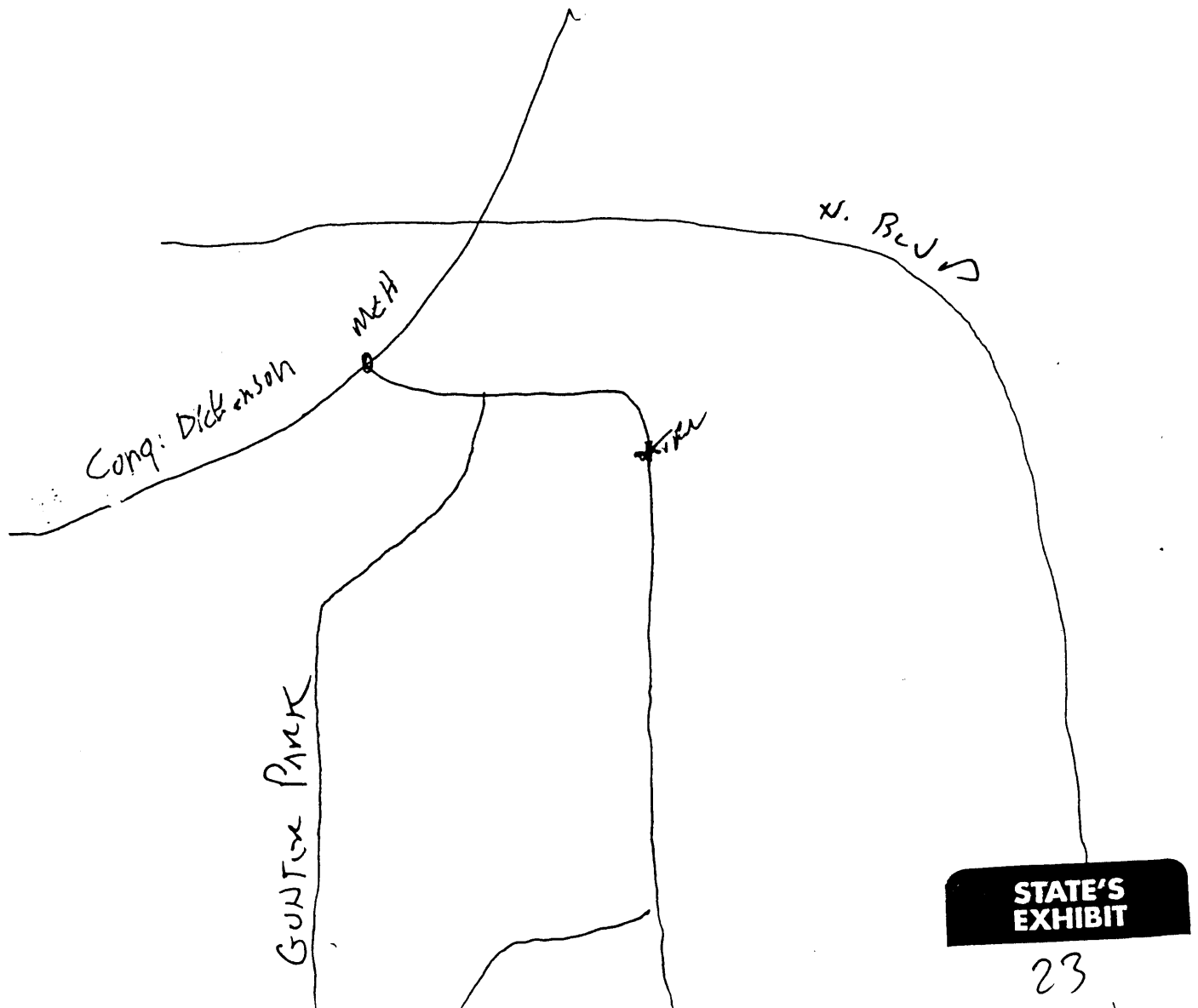


STATE'S
EXHIBIT

15

NOT TO SCALE

46



47

State of Alabama
Unified Judicial System

Form ARAP-14

Rev. 11/91

**CERTIFICATE OF COMPLETION AND
TRANSMITTAL OF RECORD ON
APPEAL BY TRIAL CLERK**

Appellate Case Number

CC-02-920TO: THE CLERK OF
THE COURT OF CRIMINAL APPEALS OF ALABAMADATE OF
NOTICE OF APPEAL: 11-12-02 oral

APPELLANT

Charles Smith

v. STATE OF ALABAMA

I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of _____ pages) (_____ volumes of 200 pages each and one volume of _____ pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

DATED this 27th day of Jan, 2003.

Melissa Pittman

Circuit Clerk